

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

The purpose of the rule making is to formalize permitting process improvements identified during “LEAN” events that included the Department of Natural Resources (Department), the Office of Lean Enterprise in the Department of Management, and stakeholders from 3M Company, Grain Processing Corporation, Monsanto Company, Pella Corporation, and Stanley Consultants, Inc. LEAN is a collection of principles, methods, and tools that improve the speed and efficiency of any process by eliminating waste.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 18, 2017, as **ARC 2895C**, and a public hearing was held on February 20, 2017, in Windsor Heights, Iowa. The Department received no comments at the public hearing. The Department received one written comment prior to the February 20, 2017, deadline for public comments.

In response to the public comment received, the Commission approved publication of an Amended Notice of Intended Action to accept additional comments and to hold another public hearing. The Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2017, as **ARC 3251C**, and a second public hearing was held on September 5, 2017, in Windsor Heights, Iowa. The Department received no comments at the second public hearing and received no additional written comments prior to the September 5, 2017, deadline for public comments.

In response to the public comment, the Commission revised Item 1 and Item 2 from the amendments published under Notice of Intended Action. The changes from the Notice are explained below. The Commission did not make any other changes from the amendments published under Notice of Intended Action. The Department’s public participation responsiveness summary is available from the Department upon request.

Item 1 amends the requirements for submitting construction permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. Item 1 also reduces the regulatory burden for construction permit applicants for projects that will not emit greenhouse gases (GHG) by eliminating the requirement to submit the current three-page GHG form. Applicants will instead be able to indicate in the project description that the application includes no GHG emissions.

In response to public comment, the Commission has revised Item 1 from what was proposed in the Notice of Intended Action. The U.S. Environmental Protection Agency (EPA) submitted a comment stating that the portion of the amendment allowing submittal of a construction permit application by e-mail would not be approved into Iowa’s State Implementation Plan (SIP). The EPA stated that it would not approve this rule change into the SIP because Iowa has not submitted the electronic submittal method as part of a formal application for compliance with the federal Cross-Media Electronic Reporting Rule (CROMERR).

Subsequently, the Department submitted a formal request to the EPA for an Applicability Determination on whether the e-mail submittal method, if submitted as part of a formal CROMERR application, would be CROMERR-compliant. The EPA responded to the Department in a letter dated May 25, 2017, indicating that such an application submittal method would not be considered CROMERR-compliant. As a result of the EPA’s comment and subsequent determination, and with no comments to the contrary, the Commission is not including the provisions for e-mail application submittal in the adopted amendments.

Item 2 amends the requirements for submitting Title V permit applications to clarify the types of mailing services that may be used to submit applications and to clarify that applications are not required to be submitted by certified mail. The Commission has also revised the requirements so that only one copy of the Title V permit application (rather than two) needs to be submitted to the Department.

In response to the same public comment as noted for Item 1, the Commission has revised Item 2 from what was proposed in the Notice of Intended Action. As a result of the EPA's comment and subsequent determination described above, and with no comments to the contrary, the Commission is not including the provisions for e-mail application submittal in the adopted amendments.

Jobs Impact Statement

After analysis and review, the Commission has determined that the amendments will have a positive fiscal impact for the regulated community, which may also result in a positive jobs impact. For instance, facilities that had previously chosen to submit hard-copy applications by certified mail are likely to realize cost savings by using another, less expensive submittal method. A cost and time savings will also occur with submitting only one copy of the Title V permit application to the Department. Further, the requirement to submit GHG forms is eliminated in many instances. These savings could be put back into the company which could positively impact jobs. A copy of the jobs impact statement is available upon request.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on December 13, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 22.1(3) as follows:

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit. One copy of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. An owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, and hand delivery. Applications are not required to be submitted by certified mail. The owner or operator of any new or modified industrial anaerobic lagoon shall apply for a construction permit as specified in this subrule and as provided in 567—Chapter 22. The owner or operator of a new or modified anaerobic lagoon for an animal feeding operation shall apply for a construction permit as provided in 567—Chapter 65.

a. No change.

b. *Construction permit applications.* Each application for a construction permit shall be submitted to the department on the permit application forms available on the department's Web site. Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while the employee is doing work for that corporation. The application for a permit to construct shall include the following information:

(1) to (8) No change.

(9) A signed statement that ensures the applicant's legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project; ~~and~~

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30 to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33;

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department; and

(11) Quantity of greenhouse gas emissions for all applications for projects that will or do have greenhouse gas emissions. For all applications for projects that will not or do not have greenhouse gas emissions, the applicant shall indicate in the application that no greenhouse gases will be emitted, and the applicant will not be required to file an inventory of greenhouse gases with that application, unless requested by the department.

c. No change.

ITEM 2. Amend subrule 22.105(1) as follows:

22.105(1) *Duty to apply.* For each source required to obtain a Title V operating permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (~~two copies~~ one copy); and U.S. EPA Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Application submission methods may include, but are not limited to, U.S. Postal Service, private parcel delivery services, or hand delivery. Applications are not required to be submitted by certified mail. Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

a. and b. No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/8/17.